

**WISCONSIN WORKS (W-2) SANCTIONS STUDY**  
**Executive Summary**

**State of Wisconsin**  
**Department of Workforce Development**

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# **WISCONSIN WORKS SANCTIONS STUDY**

## **Executive Summary**

### **Background**

The Wisconsin Works (W-2) program, which replaced the Aid to Families with Dependent Children program, was created to help participants achieve self-sufficiency through employment. The program was implemented statewide in September 1997.

The W-2 program is available to low-income custodial parents with minor children. Individuals receive benefits in exchange for their participation in assigned program activities. Participants are assigned to a variety of activities that would best advance them toward achieving economic self-sufficiency. The program seeks to imitate the reward and sanction system of a private sector job. Thus, when a participant does not participate in an assigned activity as expected and does not have “good cause” for missing the activity, they may lose benefits for the hours that they are absent, i.e., they are “sanctioned”.

Under W-2, eligible participants are placed in one of four employment and training options: Unsubsidized Employment; Trial Jobs (TJB); Community Service Job (CSJ); and W-2 Transitions (W-2 T). CSJs and W-2 Ts placements are both intended to provide work-training opportunities for individuals who are not job ready. As the only placement types subject to sanctions, they are the focus of the current study.

In February 2002, the American Civil Liberties Union and the Milwaukee branch of the NAACP filed a complaint with the federal Office of Civil Rights, alleging racial discrimination in the application of sanctions against W-2 participants. In response, the Division of Workforce Solutions (DWS), in the Department of Workforce Development, conducted an initial analysis and released a report on sanction rates by participant race and placement type for the state and for selected geographic areas. This report confirmed that there were differences in the incidence of sanctions by race in a number of agencies. In addition, the report noted that there were differences in sanction rates among agencies and different rates for persons placed in CSJ and W-2 T placements. The DWS report concluded this was very complex issue and determined that it would conduct a more thorough study of the issue in order to identify potential problems with more precision.

### **Purpose of the Study**

The overall purpose of this study is to provide information to support the Department’s goal of moving W-2 participants into the world of work in a manner that is fair and equitable. Because sanctions are a penalty, the Department is committed to ensuring that they are appropriate and are not applied due to factors such as an individual’s race/ethnicity, geographic location or employment barriers, or to issues that have not been adequately identified or addressed by the participant’s case manager.

The DWS established a Steering Committee to provide guidance to the study. It was made up of 14 members who reflected a broad range of knowledge, technical skills and perspectives on the W-2 program. It included W-2 agency administrators (balance of state and Milwaukee County), representatives of client advocacy groups, state administrators (DWS central and regional offices) and academics with experience in research methods and special knowledge of the W-2 program.

The Committee was tasked to develop the research questions for the study; oversee the analyses that were conducted; review the research products that were developed; draw conclusions about the research results and make recommendations to the DWS Administrator. Supporting the Committee were technical Work Groups that were responsible for guiding the specific analyses conducted and for informing the Steering Committee about the research findings.

The original scope of the study was to better understand where racial/ethnic disparities in sanctioning existed; the extent of those disparities, and how W-2 policies, placements and assignments to activities may contribute to those disparities. As the Steering Committee began to examine the variation in sanction rates by race/ethnicity, it became apparent that many of the factors that could lead to racial/ethnic disparities in sanction rates could also affect other categories of W-2 participants. At the DWS Administrator's request, the study's scope was broadened to examine these additional factors (i.e., case management, discretion in interpretation of W-2 policy, and dispute resolution), as the study of each factor could contribute to a better understanding of both racial/ethnic and other types of disparities in sanctioning.

Research findings were produced using a variety of analytical methods and data sources. Using both descriptive statistics and multiple regression, administrative data on sanctions were analyzed to identify racial/ethnic disparities in sanction rates. A variety of other analyses were also conducted, including a W-2 policy manual review, a content analysis of case review documents, a descriptive study of disputes filed by W-2 participants, a survey of W-2 caseworkers, and a review of the current national literature on sanction policy and race/ethnicity. Taken together, these analyses constituted the framework for the discussions that led to the Steering Committee's recommendations.

## **Findings**

A regression analysis was conducted to examine the effect of participant's race/ethnicity on the net dollar amount of the grant after sanctioning for 2000-2003. This analysis accounted for both the magnitude of the sanction and the length of time that the participant was on W-2. By controlling for a variety of participant, family, and case characteristics that can affect sanctions, the analysis provided estimates of the difference in the dollar amounts sanctioned that were due to the race/ethnicity of the W-2 participant. Thus, it isolated the impact of race/ethnicity on the net dollar amount of a grant after sanctioning. The key findings from this analysis were as follows:

- Statewide, in comparison to white CSJ participants, black CSJ participants received an average monthly grant of \$37.61 less in 2000 and \$23.88 less in 2001. In 2002, black CSJ participants received grants of \$4.84 more, on the average, than their white counterparts did and, in 2003, they received \$5.88 less.
- The racial disparity between black and white W-2 T participants in Wisconsin was greatest in 2000, but diminished over time. Black W-2 T participants were sanctioned an average of \$26.49 more than whites in 2000 and \$6.39 more in 2001. In 2002, they were sanctioned \$2.17 less and in 2003, \$5.66 less.
- Between 2000-2003, Hispanic CSJ participants in the state received larger grants than their white counterparts. In 2000, Hispanic CSJ participants were sanctioned an average of \$19.95 less per month than whites. They were sanctioned \$6.77 less in 2001, \$15.02 less in 2002 and \$.11 less in 2003.
- Hispanic W-2 T participants in Wisconsin received slightly lower net grants than whites in 2000 and 2001 (-\$4.27 and -\$3.27, respectively) and slightly higher grants during 2002 and 2003 (\$6.81 and \$2.26).
- In 2000, black CSJ participants in Milwaukee County were sanctioned on average, \$36.92 more than whites in CSJ placements. This disparity declined in 2001 to \$26.99. In 2002, black CSJ participants were sanctioned \$6.36 less than their white counterparts, and in 2003, they were sanctioned \$0.84 more.

- Hispanic CSJ participants in Milwaukee County were sanctioned less than white CSJ participants in all four years.
- The largest and most persistent racial disparity in sanction amounts occurred in the balance of state, where black CSJ participants were sanctioned between \$32.03 and \$65.52 more than white CSJ participants during 2000-2003.

In addition, a preliminary review of disparities in sanctions found that American Indians had, on average, a higher percentage of their monthly grants sanctioned than did whites. This review, however, did not control for participant, family and case characteristics (i.e., it did not isolate the impact of race/ethnicity on the amount of a participant's grant after sanctioning).

The studies of case management, discretion in interpretation of W-2 policy and dispute resolution found that:

- Among cases approaching exhaustion of their CSJ or W-2 T eligibility, variations in case management practice were identified that may contribute to disparities in sanctioning.
- Variations by agency and caseworker in the interpretation and application of W-2 policy were found. This could result in participants in like circumstances being subject to different sanction decisions and receiving different benefit levels and services.
- More than one-fifth of the cases that went to Fact Finding or to Departmental Review between 1997 and 2003 were related to sanctions and "good cause."

### **Steering Committee Recommendations**

The Steering Committee sought to develop recommendations that would lead to the equitable treatment of participants in a manner that was consistent with the philosophy and goals of the W-2 program. There was consensus among Committee members on 19 of 30 recommendations and varying degrees of agreement on the remaining 11 recommendations. To aid decision-makers, the Committee prioritized its recommendations into three tiers. The first tier of recommendations (priority recommendations) reflected the Committee's broad consensus. The next tier (second priority recommendations), received support from the majority of Committee members, but lacked full consensus. The last tier of recommendations (recommendations requiring additional discussion) was the one on which Committee members were most divided, and would require further review and discussion. Within each tier, the individual recommendations are grouped into one of the following topical categories: training, policy/statute, practice/implementation, monitoring and analysis.

### **Priority Recommendations**

The Steering Committee believes that these recommendations should be initiated first, since they reflect a group consensus. The Committee felt that the support for these recommendations from all sectors of the group indicates that the recommendations could be successfully implemented. The Committee emphasized the value of beginning the implementation process for these recommendations as soon as possible, because of the impact they would have on the lives of Wisconsin families.

### ***Training:***

- Provide training to case managers and supervisory staff to increase awareness of diversity issues. Identify, analyze and share the results of research from other states that examine the impact of case managers' decision making on sanctioning, with the goal of reducing differential impacts.

*Controlling for other factors that may affect sanctions, this study showed that black participants were often sanctioned for a higher percentage of their W-2 grants than whites within the same placement type. Specialized training for agency staff would help increase awareness of these issues and be one step toward reducing racial/ethnic disparities in the treatment of participants.*

- Develop policy and staff training to emphasize the need for accommodations for participants with health conditions (or children with disabilities) that preclude full-time participation. Those accommodations can include but are not limited to reducing required participation hours.

*U.S. DHHS Office of Civil Rights guidance states that, in order to identify potential disabilities, TANF screenings and assessments should include an analysis of each individual's ability to meet the program's participation requirements and the appropriate services should be provided based on needs identified by the screening and assessment process. There is some evidence from the current study that accommodations are not always offered to participants. This recommendation is to ensure that FEPs utilize accommodations, such as counseling and treatment, for participants whose physical or mental health conditions preclude full-time participation and that W-2 policy is clarified regarding the circumstances under which reduced participation hours are allowed.*

- Evaluate W-2 training curriculum to determine how discretionary aspects of W-2 policy are trained. Determine if training outcomes are consistent with stated law, administrative rule and policy. Focus training to ensure that FEPs and supervisory staff understand policy and appropriately use guidelines when exercising discretion.

*This study found variation from agency to agency, and among FEPs within agencies, regarding the interpretation of policies related to placement, sanction and "good cause." Other studies, which surveyed welfare recipients, showed some evidence that recipients perceived differences in the treatment they received by race/ethnicity. While these latter studies were based on small samples that cannot be generalized to Wisconsin, they draw attention to the potential for disparate treatment.*

#### **Policy/Statute:**

- Provide more guidance through policy in the area of granting "good cause." Guidelines should include reasons similar to those specified in Learnfare. The "good cause" process should be made accessible to people with a variety of barriers, and specify documentation for "good cause" and timeframe. Agency practice must comply with state policy guidelines.

*Results from the current study showed that there was variation among agencies and individual FEPs in the application of policy regarding granting "good cause" exemptions from sanctions. Currently, policy guidelines leave a great deal to the discretion of the agency and FEP. The recommendation seeks to modify the policy guidelines to include more specific reasons for granting "good cause" and more guidance for doing so.*

- Emphasize through policy that assessment, including formal assessment, is an ongoing process and not a one-time event. Establish a trigger that requires that additional assessments and intensive case management would be offered to participants who receive severe or repeated sanctions, or to establish if they are employed full-time.

*In a sample of W-2 participants who were sanctioned to a net grant of less than \$100 during two consecutive months, the majority of the sample had no assessment to determine their reason for non-participation and lacked regular contact with a FEP. This recommendation is intended to emphasize that on-going assessment and case management are necessary to identify barriers, properly assign participants to activities and provide necessary supports in order to ensure that sanctions are appropriate and to improve program participation.*

- Restore the fair hearing process. (This would require a statutory change.)

*Approximately 20 percent of Fact Finding cases and 27 percent of Departmental Review cases filed between September 1997 and August 2003 were filed over disputes about sanctions and "good cause." This recommendation is to allow a participant who was sanctioned or otherwise denied*

*benefits to file a request for a fair hearing, with their benefits continuing until a decision was made at the hearing.*

- Establish a definition of what activities can be sanctioned. Only work activities should be sanctionable. Activities related to health needs would not be sanctionable. Train staff to assist customers on compliance.

*W-2 policy allows agencies to sanction participants for not participating in a wide variety of activities, including those that relate to health and care for a family member. The recommendation is to restrict those activities that are sanctionable to include only those related to work. In addition, this recommendation is to provide FEPs additional training to assist participants in complying with program requirements.*

### **Practice/Implementation:**

- Identify best practices that reduce inappropriate sanctioning to be implemented with agencies statewide. Determine if there are case management strategies or practices that lead to inappropriate sanctions.

*The findings about variations in racial/ethnic differences in sanctioning during the study period could be used to develop a series of "best practices" to address racial/ethnic disparities in Wisconsin and in other states.*

- Develop an action plan of ways to improve case management, including targeted training, policy clarification and system and reporting tools that can help FEPS.

*This recommendation is for the DWS to develop an action plan to implement case management improvements, using a multi-faceted approach that reflects the findings from the current study.*

- Hold periodic roundtables for FEPs and supervisory staff to review case scenarios and discuss as a group where the individual should be placed in W-2, with the goal of increasing uniformity in decision-making statewide.

*Results from the current study showed that there was variation among agencies and FEPs within agencies in interpretation of policy related to placement, sanction and "good cause." This recommendation represents an approach to achieving more consistency.*

### **Monitoring:**

- Monitor adverse actions by race and require agencies with a high level of disparities to provide explanations.

*The recommendation is to continue to monitor sanction rates and other adverse actions by race/ethnicity and to require agencies with high levels of disparities to investigate the disparities and report to the DWS.*

- Continue to monitor "significant sanction" cases through the DWS BW-2 Regional Offices to assure appropriate outcomes for all participants.

*"Significant sanction" cases are defined as a case that has been sanctioned down to a net grant of \$100 or less in two consecutive months. The recommendation is to continue the current policy that requires a Regional Office review of such cases.*

- Increase BW-2 regional staff to ensure adequate case management monitoring can be continued.

*The state DWS is responsible for oversight and management of the W-2 program. However, the number of regional staff who do case reviews and monitoring has been reduced. This recommendation is to increase staffing levels to ensure that case reviews and monitoring continue at an adequate level.*

### **Analysis:**

- Analyze why people of color are much more likely to be placed in CSJs than white participants.

*The current study found that black, Hispanic and American Indian participants were more likely than whites to be placed in a CSJ and that participants in CSJs were more likely to be sanctioned than were participants in W-2 T placements. Because W-2 tier placements are subject to a discretionary decision by agencies, the extent to which a participant's race/ethnicity may affect their placement needs to be more fully evaluated.*

- Conduct a comprehensive study of sanctions, strikes and other adverse actions by race in the 2006-2008 biennium.

*Controlling for other factors that might affect sanctions, this study found that racial disparities in sanction rates varied over time. A follow-up study of sanctions and other adverse actions could determine whether racial/ethnic disparities exist and evaluate the effectiveness of actions designed to address them.*

- Analyze the significant changes in racial disparities between 2001, 2002, and 2003 and seek to identify patterns or factors that may have contributed to the reduction or increase. This could be used to develop best practices that could be implemented in Wisconsin, as well as other states.

*While changes in racial/ethnic disparities were evident over the period of the study, and those disparities varied by racial/ethnic group and agency, the causes of those variations are not well understood. This recommendation seeks to enhance an understanding of those factors that can affect racial/ethnic disparities and to use this information to address them.*

- Examine the findings related to Native American participants, whose sanction rates are also much higher than white participants.

*The initial analysis in this study indicated that American Indian participants were sanctioned at a higher rate than white participants. There were, however, too few American Indians in any individual agency to allow valid statistical estimates of a disparity. Additional qualitative research is necessary to understand the impact of sanctions on American Indian W-2 participants and the causes of any disparities.*

- Approve the proposal to evaluate the W-2 screening and assessment process.

*In 2003, DWS implemented a new barrier screening and assessment process to assist FEPS in identifying employment barriers that might otherwise remain hidden. Since DWS is currently conducting an evaluation of the barrier screening tool process, work on this recommendation is in progress.*

- Create and release a standardized, annual report of sanctions by race.

*There is currently no routine report that describes sanction rates by race/ethnicity. This recommendation would create a standard report, which would take into account other variables, in addition to race/ethnicity that affect sanctions.*

### **Second Priority Recommendations**

Although these recommendations lacked full Steering Committee support, a majority of the Committee members ranked these recommendations of sufficient importance that they should be included in the final report. For each of these recommendations, at least some of the Committee members gave them a low rating.

The Committee acknowledges that some of the recommendations in this section will require additional consideration and development. Implementation may take longer than the priority recommendations. In addition, some of these recommendations may require additional resources that are not immediately available.

**Policy/Statute:**

- Establish an ombudsman program that provides independent advocacy for participants who want to challenge adverse actions including sanctions.

*The current study showed that participants who had an advocate present fared better at Fact Finding than those who lacked an advocate. The availability of independent advocates varies by location in the state. This recommendation is to provide W-2 participants throughout the state with access to an independent advocate.*

- Institute a pre-sanction review process when a participant has been sanctioned \$100 or more in any given month.

*The granting of "good cause" is often left up to the individual FEP and sanctions are sometimes issued automatically without FEP knowledge. Among a sample of cases where participants had been sanctioned to a net grant of less than \$100 in two consecutive months, there was no assessment to determine the reason for non-participation in most cases. Also, DWD reviewers indicated that sanctions did not lead to improving behavior for this sample of participants. This recommendation is to require a supervisory level review on substantial sanctions, including decisions to deny "good cause" in order to allow additional assessment and evaluation of a participant's circumstances.*

- Authorize continuing benefits for participants challenging adverse actions including sanctions through the fair hearing process. (This would require a statutory change.)

*Under current policy, payments are reduced by the amount of the sanction, even where the decision to sanction or deny "good cause" has been appealed to the dispute resolution process. The recommendation here is to continue benefits when a decision is being challenged until the dispute resolution process is concluded.*

- Explore agency incentive bonuses for exceptional performance in terms of racial equity excellence or be subject to possible penalties from the state for significant racial disparities.

*Past policy allowed for bonus payments to agencies that exceeded performance expectations and penalties for those that dropped below performance expectations in various program outcomes. The proposal here is to explore implementing a system of bonuses and penalties for agencies based on their performance in reducing racial/ethnic disparities in sanction rates.*

**Analysis:**

- Analyze all cases in which a 24-month extension is not requested. Of that total, analyze those cases that were moved because of time limits and those that were moved from one W-2 tier to another because of reasons other than full-time employment or receipt of SSI.

*If a participant is reaching the W-2 T time limit, W-2 agencies can request an extension. Steering Committee comments indicated that it is possible, in certain circumstances, that some participants are moved from W-2 T placements to CSJs simply because they are approaching their 24-month time limit, a situation that could lead to inappropriate sanctioning. Consequently, additional research is necessary to determine the extent to which shifts in placements result from time limits, the use of extension requests in these instances, and the effect of placement shifts on the application of sanctions.*

- Replicate some of the studies that investigate case managers' treatment of participants of different races.

*Research elsewhere has investigated whether members of different racial/ethnic groups perceived differential treatment by case managers and employers. Additional research is needed to investigate how W-2 case managers and potential employers treat W-2 participants in different racial/ethnic groups and how this may relate to racial/ethnic disparities in sanctions and other adverse actions.*



- Require that DWS review and report to the Administrator on national research about sanctioning policies and procedures to determine what sanctioning practices produce the most effective results.

*Research has been conducted in other states on sanctioning policies and procedures. This recommendation is to review that research and to report relevant findings to the DWS Administrator.*

### **Recommendations Requiring Additional Discussion**

These recommendations are those on which the Steering Committee was most divided. The majority of Committee members felt that these recommendations were definitely not a priority because they were of little value or would require an unwarranted commitment of resources. Some Committee members, however, felt strongly that these issues were important and essential. While there was no group agreement about the value of these recommendations, there was agreement that they should be forwarded as part of this report for consideration.

#### **Policy:**

- Establish a requirement that DWD and W-2 agencies do more outreach including fliers to families that have received a \$100 or more sanction.

*Current practice is to provide participants with information on such things as their right to appeal agency decisions and the availability of other community resources at the time that they become eligible for benefits. This recommendation is to provide additional information to participants at the point they begin experiencing substantial sanctions.*

- Create a new W-2 tier with separate requirements for participants who are either awaiting SSI or who are unlikely to get SSI despite having severe barriers to self-sufficiency through work. This tier could take advantage of the 20% exemption currently available to states in PRWORA. (This would require a statutory change.)

*Some W-2 participants may better be served by SSI. Others might not be eligible for SSI but have disabilities that would prevent them from participating in a work program. This recommendation is to create a new tier placement in W-2 that would have requirements more appropriate to participants with disabilities or severe barriers to employment.*

#### **Analysis:**

- Evaluate the Fact Finding process in its entirety to determine why the outcomes are so different from the outcomes of cases reviewed by Departmental Review.

*Cases that come before Departmental Review are found in favor of the participant much more frequently than those considered in Fact Finding. This recommendation is to analyze why the outcomes from each of these processes differ.*

- Gain a better understanding of what is being disputed and whether it has implications on policy, training or procedure.

*Current research on dispute resolution (Fact Finding and Departmental Review) was hampered by limited data. Additional research is necessary to determine the issues in dispute and whether there are changes in policy, training or procedure that might reduce disputes.*